



NOTICE OF VIOLATION
 NORTH DAKOTA PUBLIC SERVICE COMMISSION
 SFN 18099 (10-91)

		N.O.V. Number NOV-0803	
Name of Permittee The Falkirk Mining Company		Permit Number NAFK-8405	
Address PO Box 1087	City Underwood	State ND	Zip Code 58576-1087
Telephone Number 701-442-5751	Mine Falkirk	County McLean	
Name of Operator (if other than permittee) same			
Address	City	State	Zip Code
Date of Inspection October 17, 2008	Time of Inspection From: 09:30	<input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.	To: 03:15 <input type="checkbox"/> a.m. <input checked="" type="checkbox"/> p.m.

Under the authority of North Dakota Century Code Chapter 38-14.1, the undersigned authorized representative of the Commission has conducted an inspection of the above mine on the above date and has found a violation of the statute, rules, permit condition(s), or section(s) of the approved operations and reclamation plan listed on page 2 of this Notice of Violation.

You must abate this violation within the designated abatement time.

The undersigned authorized representative finds that cessation of surface mining activities is is not expressly or implicitly required by this Notice of Violation.

This Notice of Violation shall remain in effect until it expires as provided on the reverse side of this page, or is terminated or vacated by written notice by an authorized representative of the Commission.

Print Name of Person Served Joe Clarke	Print Title of Person Served Environmental Manager
Method of Service <input type="checkbox"/> Personal <input checked="" type="checkbox"/> Certified Mail	Date of Service October 29, 2008
Signature of Person Served	Signature of Authorized Representative <i>Dean K. Moore</i> for Guy Welch

Nature of Violation
<p>Discharges from pit water Pond P-E24-01 have created an erosion feature along the shoreline area of Coal Lake that is approximately 3-4 feet deep and 15-20 feet in diameter. This erosion feature is located at the discharge point (062) of pit water Pond P-E24-01. The end point of the discharge pipe also appears to be located several feet beyond the permit boundary. There was no energy dissipater at the end point of the discharge pipe at the time of the inspection.</p> <p style="text-align: center;">(if applicable, include the extent to which the violation cannot be corrected)</p>

Distribution: Public Service Commission; Permittee/Operator; and, OSM Field Office

Provision(s) of the Statute, Rules, or Permit Violated
<p>NDAC 69.05.2-16-10 requires that discharges from sediment ponds be controlled, where necessary using energy dissipaters, riprap channels, surge ponds, and other devices to reduce erosion, prevent deepening or enlargement of stream channels and minimize disturbance to the hydrologic balance.</p> <p>Section 3.6.24 of Permit NAFK-8405 states, that an energy dissipation structure would be placed on the outlet of the discharge line for Pond P-E24-01.</p>

Portion of the Operation to which this Notice Applies (Include legal description)
<p>The discharge point (062) for pit water Pond P-E24-01 is located in the SW¼ of Section 24, T146N, R82W, McLean County.</p>

Remedial Action Required (including interim steps, if any)
<p>The Falkirk Mining Company must discontinue all water discharges through discharge point 062 and clearly mark the permit boundary at this location. Pond P-E24-01 must not be discharged in the SW¼ of Section 24 until an alternate discharge point location within the existing permit is approved. Falkirk must also submit plans for the construction of an energy dissipater at the discharge point to minimize disturbance to adjacent undisturbed areas. An approved energy dissipater must also be installed or constructed prior to resuming discharges in this area. In addition, Falkirk must repair and stabilize the erosion feature near Coal Lake.</p>

Time for Abatement (including interim steps, if any)
<p>Falkirk must immediately discontinue water discharges at discharge point 062 immediately. The permit boundary must be clearly marked in this location within ten (10) days of the receipt of this NOV. Plans for an alternate discharge point location within the existing permit area with an appropriate energy dissipater must be submitted within five (5) days of receipt of the NOV. The energy dissipater at the new discharge location must be constructed within twenty-five (25) days and the repair of the erosion feature must be completed within twenty (20) days.</p>

IMPORTANT - PLEASE READ CAREFULLY

1. **MINESITE HEARING.** A Notice of Violation which requires cessation of surface mining activities, expressly or by necessary implication, shall expire within thirty (30) days after it is served unless an informal public minesite hearing has been held at or near the minesite within that time or the hearing has been waived. On the reverse of this page, an authorized representative has made a finding as to whether this Notice requires cessation of surface mining activities. If cessation of mining is required, an informal public minesite hearing will be automatically scheduled by the North Dakota Public Service Commission and will be held within thirty (30) days of the service of this Notice, unless you or your agent waive that hearing in writing.
2. **INFORMAL CONFERENCE.** Notwithstanding the informal minesite hearing provided for in paragraph 1, you must apply for an informal conference with the North Dakota Public Service Commission within thirty (30) days of issuance of this Notice in order to preserve your appeal rights. You may apply for an informal conference by submitting a written request for an informal conference to the North Dakota Public Service Commission within thirty (30) days of issuance of this Notice to you or your agent. The informal conference will be held in the locality of the mine if requested. A stenographic record will be made of the informal conference unless waived by all parties.
3. **FORMAL PUBLIC HEARING.** If you do not desire an informal conference, you may apply for a formal hearing regarding this Notice by submitting a written request for a hearing to the North Dakota Public Service Commission within thirty (30) days of issuance of this Notice to you or your agent. If you do not request an informal conference or a formal public hearing within thirty (30) days, your right to appeal will be forfeited. Please note that you will also have the opportunity to request a formal hearing within thirty (30) days of the decision on the informal conference held under paragraph 2.
4. **TEMPORARY RELIEF.** You have the right to request temporary relief from this Notice pending completion of any investigation and hearing procedures being conducted. A request for temporary relief must be in writing as set forth in subsection 4 of North Dakota Century Code Section 38-14.1-30 and filed with the North Dakota Public Service Commission. The request for temporary relief must include a detailed statement giving reasons why such temporary relief should be granted. The request for an informal conference or a formal public hearing will not stay enforcement of this Notice unless temporary relief is requested and granted.